

the county in which the same shall be committed, commanding him to bring such offender before him, or any other justice of the peace for said county, who shall recognize him in the sum of two thousand dollars, with good and sufficient security—or in case of neglect or refusal, then to commit such offender to prison, to take his trial at the next court having competent jurisdiction.

#### MURDER.

137. All murder which shall be perpetrated by means of poison, or lying in wait, or by any kind of wilful, deliberate and premeditated killing, shall be murder in the first degree.

138. All murder which shall be committed in the perpetration of, or attempt to perpetrate any arson, shall be murder in the first degree.

139. All murder which shall be committed in the burning or attempting to burn any barn, tobacco house, stable, warehouse or other out house, not parcel of any dwelling house, having therein any tobacco, hay, grain, horses, cattle, goods, wares or merchandise, shall be murder in the first degree.

140. All murder which shall be committed in the perpetration of, or attempt to perpetrate any rape, sodomy, mayhem, robbery or burglary, shall be murder in the first degree.

141. All murder which shall be committed by any person in arresting and imprisoning, or attempting to arrest and imprison, any free person, or person entitled to freedom at or after a certain age, period or contingency, with intent forcibly to carry, or to cause to be carried out of this State, the person so as aforesaid free or entitled to freedom as aforesaid, shall be murder in the first degree; *Provided*, the person offending as aforesaid, shall know that the person so arrested and imprisoned is free or entitled to freedom as aforesaid.

142. All other kinds of murder shall be deemed murder in the second degree.

143. And the jury before whom any person indicted for murder shall be tried, shall, if they find such person guilty thereof, ascertain in their verdict whether it be murder in the first or second degree; but if such person be convicted by confession,